

112 State Street  
4<sup>th</sup> Floor  
Montpelier, VT 05620-2701  
TEL: 802-828-2358



**State of Vermont  
Public Utility Commission**

TTY/TDD (VT: 800-253-0191)  
FAX: 802-828-3351  
E-mail: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov)  
Internet: <http://puc.vermont.gov>

**MEMORANDUM**

To: Brian Winn (by email)

Cc: Parties of record in Case Nos. 18-0974-TF, 18-1633-PET, 18-2850-TF, 18-3160-PET, and 17-5003-PET

From: Kyle Landis-Marinello, General Counsel *KLm*

Re: Clarification of the Filing Procedures for Allegedly Confidential Information

Date: November 30, 2018

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On November 27, 2018, you emailed me with a procedural question about how to file documents related to the public comment that you made in four of the above-mentioned cases. I responded as follows: "The procedural method for a non-party member of the public filing anything is through ePUC as a public comment."

At the time you asked this question, I was not aware that the materials you wished to file may be privileged. On November 29, 2018, the Department of Public Service submitted a filing informing the Commission and the parties to these proceedings that the Department "has reviewed the two documents listed by Mr. Winn in his letter and made a preliminary determination that those documents are subject to the attorney-client and/or work product privileges." The Department's filing also attaches a letter from you asserting that I advised you that "the only way to submit this evidence is by public comment in ePUC."

In light of the Department's assertion of potential privilege, I want to clarify that, as noted in Section IV of our [Standards and Procedures Applicable to Electronic Filing Using ePUC \(as amended September 1, 2018\)](#), the ePUC "electronic filing procedures are not available for use in filing documents with the Commission that contain asserted confidential or confidential information," and those documents thus "shall continue to be filed in hard copy."

Please note that the above information is provided solely so that you know our procedures for submitting confidential and allegedly confidential information in the event you choose to file such information. I cannot advise you on whether any of the documents you have fall into that category. (As you know, I have not seen these documents.) Nor can I advise you on whether there are other obligations, such as the privileges asserted by the Department, that, if applicable, might prevent submitting those documents to the Commission and serving them on other parties.